

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD BRINK, et al.,

Plaintiffs,

No. C 11-00284 JSW

v.

JP MORGAN CHASE N.A., et al.,

ORDER DISMISSING ACTION

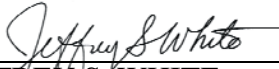
Defendants.

On May 26, 2011, the Court issued an Order to show cause (“OSC”) why this matter should not be dismissed for lack of jurisdiction in light of the fact that, Plaintiffs bring only state-law claims against Defendants. Plaintiffs response to the OSC was due by noon on May 27, 2011. Almost two hours past the deadline, Plaintiffs’s attorney filed a declaration in response, simply stating that “[t]he foundations of the claims contained in this complaint are based on federal statutes, especially the Real Estate Lending Standards Act as codified in the Code of Federal Regulations. As claims directly arise from federal statutes, it is quite obvious that this Court has jurisdiction.” Plaintiffs did not seek leave of Court to file their response after the deadline had expired. A claim “may arise under federal law ‘where the vindication of a right under state law necessarily turned on some construction of federal law.’” *Merrell Dow Pharmaceuticals, Inc. v. Thompson*, 478 U.S. 804, 808-809 (1986); *see also Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 13 (1983) (federal law must be “a necessary element” of one of the state-law claims). The Court admonished that “this statement must be read with caution.” *Merrell Dow*, 478 U.S. at 809.

1 Plaintiffs' brief statement fails to show how federal law is a necessary element of any of
2 their state-law claims and thus do not meet their burden to demonstrate that the existence of
3 federal-question jurisdiction. Accordingly, the Court is dismissing this action for lack of
4 jurisdiction. A separate judgment shall issue and the Clerk shall close the file.

5 **IT IS SO ORDERED.**

6
7 Dated: May 31, 2011



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE